

AC-83 04

# The Commonwealth of Massachusetts

## Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352



Dennis J. Duffin  
Director

April 7, 1983

Ms. Suzanne Davis  
Doherty, Wallace, Pillsbury,  
and Murphy, P.C.  
1387 Main Street  
Springfield, MA 01103

Dear Ms. Davis:

You have requested an advisory opinion as to whether M.G.L. c. 55, the campaign finance law, would permit the Convention Bureau of the Springfield Chamber of Commerce to establish a fund, solicit corporate monies and help defray certain expenses of the Democratic State Convention, to be held in Springfield during April 1983.

In rendering this opinion, I have relied upon the facts as you have stated them in your letters of March 2 and March 29th. This office has not conducted any independent investigation of those facts.

M.G.L. c. 55, the law which this office is statutorily empowered to interpret and administer, regulates in a specific and comprehensive manner all political campaign financing in the Commonwealth. Section 8 of that Chapter states, in relevant part,

"No corporation carrying on the business of a bank, trust, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, or water company, no company having the right to take land by eminent domain or to exercise franchises in public ways, granted by the commonwealth or by any county city or town, no trustee or trustees owning or holding the majority of the stock of such a corporation, no business corporation incorporated under the laws of or doing business in the commonwealth and no officer or agent acting in behalf of any corporation mentioned in this section, shall directly or indirectly give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding, promoting or antagonizing the interest of any political party..." (emphasis supplied)

Clearly, the statute prohibits the use of such corporate funds for the purpose of influencing the political candidacy of any individual, or for the purpose of influencing the interest of any political party. Therefore, corporate funds may not be used to defray expenses the purpose of which is to aid or promote the interest of a political party. If the assumption of certain expenses by corporate entities would accrue to the benefit of the Democratic State Committee, the above described prohibition contained in Section 8 must necessarily apply. In turn, c. 55 permits political committees such as the Democratic State Committee to make expenditures solely for the purpose of influencing the nomination or election of candidates, as well as questions submitted to voters. Some of the proposed expenditures could not, by definition be construed as the defraying of such expenses.

Given this general overview, we now turn to the specific questions raised in your inquiry. I will deal with each area of expenses individually.

Several expenditures which the Convention Bureau wishes to make relative to the Democratic State Convention appear to be for the purpose of promoting the city of Springfield, its commerce and its image, as described in your letter of March 29, 1983. These expenditures are: welcoming the convention attendees to the city with activities such as receptions, tours, and information booths. The purpose of these activities appears to be to promote the city itself, and the benefits received accrue directly to the city of Springfield and businesses located therein. Therefore, expenses relative to this activity would not be for those purposes regulated by G.L. c. 55, and as such the campaign finance law would not prohibit the use of corporate funds to assume these expenses.

The use of Convention Bureau personnel to provide central housing and reservation services would appear to run to the benefit of the individual delegates, and its value lies primarily with those individuals. The expenditures relative to the provisions of these services are not for the purpose of promoting the interest of the Democratic State Committee, and the use of Convention Bureau funds for this purpose would not be prohibited by G.L. c. 55.

You have also proposed that the funds of the Convention Bureau be used to pay for law enforcement services necessary for the convention. The purpose of these services is to protect the individual delegates as well as to protect the residents and businesses located in the City of Springfield. These expenditures are attributable to the personal health and safety of the individual delegates and to the City of Springfield. Therefore, the defraying of these expenses with Convention Bureau funds could not be constructed as enhancing the Democratic State Committee, and therefore, is not prohibited under G.L. c. 55.

The use of Convention Bureau funds to assume expenses relative to accommodations and hospitality for committees of the parties responsible for choosing the sites of the Convention would be permitted, as long as these expenses relate solely to the City of Springfield engaging in promotional activity during a pre-selection period to persuade the committee members to utilize its city as a convention site. However, under no circumstances may Convention Bureau funds be used to defray accommodation expenses during the convention itself for committee staff. The purpose of the attendance of these committee members at the Convention is to assist in the work of the Democratic State Committee. The underwriting of the expenses by the Convention Bureau would result in a direct benefit

to the Democratic State Committee, and is thus prohibited by Section 8.

The use of Convention Bureau funds to provide hotel rooms at no charge or at a reduced rate on the basis of the number of rooms actually booked for the convention, and the provision of various local transportation services to the delegates, should be subject to the following test under c. 55. If in the ordinary course of business, which means that there has been a constant and consistent pattern of such activity, the Convention Bureau has made such provisions for attendees of other conventions in Springfield, c. 55 would not prohibit the Convention Bureau from providing these hotel rooms and transportation services as long as the benefit of this activity generally accrues to delegates and not to the Democratic State Committee. If it is normal business activity, the benefit derived would accrue directly to the individual delegate, and the defraying of that expense by the Convention Bureau is a personal matter rather than a political one. However, if the Convention Bureau does not ordinarily undertake this type of transaction, but rather has chosen to defray such expenses in this instance at the behest of the Democratic State Committee, the purpose of these expenditures would then clearly be political. Thus, Section 8 of c. 55 would prohibit the Convention Bureau from using corporate monies to defray these expenses.

The most difficult question you have posed concerns the use of Convention Bureau monies to defray expenses of the Democratic State Committee relative to granting the use of the convention center: construction and convention related services therein such as: construction of podiums, press tables, false floors, camera platforms, additional seating, lighting, electrical, air conditioning and loudspeaker systems; offices, office equipment and decorations. These activities are so directly related to the convention itself, and therefore to the responsibilities of the Democratic State Committee as to create a presumption that the defraying of these expenses by the Convention Bureau would result in a prohibited corporate contribution to the Democratic State Committee. In Opinion of the Attorney General, November 6, 1980, the Attorney General dealt with the extent to which business corporations may participate in campaign finance activity of candidate and multi-candidate political committees, such as the Democratic State Committee, in light of the statutory prohibitions contained in c. 55. This opinion states, in part,

"In considering the extent to which a business corporation may make goods and services available to candidates or political committees, the meaning of the phrase 'anything of value,' as used in G.L. c. 55, §8, is of critical importance. This phrase cannot be interpreted in isolation, but must be read in conjunction with the other components of the statutory scheme of which it is a part. Boston v. Massachusetts Bay Transportation Authority, 373 Mass. 819, 823 (1977). Of particular significance is the definition of the term contribution in G.L. c. 55 §1, where the word is said to include 'any discount or rebate not available to other candidates for the same office and to general public.' Many of the specific question you have posed may be answered by reference to this statutory provision.

The Massachusetts statutory scheme does not prohibit corporations from selling or renting their facilities, goods and services to candidates for political office or political committees organized on their behalf. Questions arise, however, as to the remuneration that the corporation must receive in return for the goods or services provided. It is my opinion that corporations may not offer those goods or services without charge and must charge a rate such that no discount or rebate is offered to any candidate or committee which is not available to other candidates for the same office and to the general public."

This language provides some guidance which can be applied to the situation at hand. As I stated earlier, the statutory language contained in G.L. c. 55 requires a presumption that the assumption of these expenses by the Convention Bureau, which are so directly related to the work of the Democratic State Committee, is prohibited. However, a consistent and constant pattern of the Convention Bureau assuming these specific expenses on behalf of other conventions in the City of Springfield may provide sufficient evidence to show that this benefit is no more than that which is available to the general convention public. If in fact, the Convention Bureau undertakes these expenses as a normal part of their business activity in promoting the use of the City as a convention site, this may operate to remove the presumption that the Democratic State Committee is receiving something of value from the Corporate funded Convention Bureau. If the Democratic State Committee is merely receiving a service which is consistent with a constant part of ordinary business activity between the Convention Bureau and convention sponsors, prohibitions contained in c. 55 may not apply. However, given this test, and the lack of evidence presented, I must decline to determine at this time that c. 55 permits these expenditures.

If, in fact, any of the above described activity is undertaken by the Convention Bureau in a consistent and constant manner in the course of its ordinary business activity, such activity may be permitted under G.L. c. 55. If that is the case, the purpose of these expenditures must necessarily be for the promotion of the City of Springfield, and the businesses located therein. The prohibitions contained in the campaign finance law would have to apply if the purpose was political. Since the purpose of the contributions to the Convention Bureau by the entities you describe in your letter would be to promote a business climate in which those businesses can reasonably expect a return on the investment they are making, the solicitation of funds by the Convention Bureau should reflect that purpose. These funds should be solicited and received solely from those businesses located within the city of Springfield, and its contiguous communities, for it is those businesses which would be directly affected by the presence of the convention and would therefore have a genuine business interest in its activities.

The involvement of the City of Springfield in these activities is subject to the same limitations as described above. In *Anderson v. City of Boston*, 380, NE 2d (1973) the Supreme Judicial Court held that a municipality may generally not appropriate and expend funds to influence election results. Therefore, a municipality may not appropriate and expend funds for any activity relative to the Democratic State Convention which would be characterized as political, as these activities are defined and tested in this opinion. Since this Opinion has held that Convention Bureau funds may not be used for political purposes as that term is used in G. L. c. 55, donations by individuals to the

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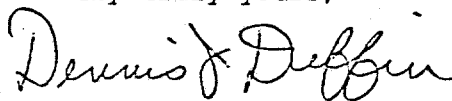
Fund are not regulated by the campaign finance law.

In enacting G.L. c. 55, as appearing in c. 151 of the Acts of 1975, the legislature noted that the purpose of the Act was to "provide for public disclosure of political contributions and expenditures, and the regulation of said contributions and expenditures..." In Anderson v. City of Boston, 380 NE 2d 628 (1978), the Supreme Judicial Court stated that "We interpret G.L. c. 55 as intended to reach all political fund-raising and expenditures within the Commonwealth." In light of the comprehensive authority contained in G.L. c. 55, and in order to ensure compliance with this opinion, the Convention Bureau, provided it undertakes any of the above activities relative to the Democratic State Convention, will be required to disclose such activities to this office. We request that such a report detailing the sources of monies received by the Convention Bureau for the above-described purposes, and the expenditure of those funds relative to the Democratic State Convention be filed with this office by June 10, 1983.

In conclusion, the Convention Bureau of the Greater Springfield Chamber of Commerce may solicit funds for the purpose of defraying certain expenses relative to the Democratic State Convention, subject to the limitations set forth above. If any such activity is undertaken, the Convention Bureau must disclose any and all funds received and expenditures made to this office.

Thank you for your cooperation in this matter, and please do not hesitate to contact me for any responses to any additional questions which might arise as a result of this Opinion.

Very truly yours,



Dennis J. Duffin  
Director

DJD/rep

cc: Paul Doherty, Esq.  
James Roosevelt, Esq.